

**COMMITTEE ON OVERSIGHT AND  
GOVERNMENT REFORM  
OVERSIGHT HEARING  
“Political Interference with Science: Global Warming, Part II”  
Monday, March 19, 2007; 10:00 a.m.  
2154 Rayburn House Office Building**

**Supplemental Minority Memorandum**

This is the second hearing of the House Committee on Oversight and Government Reform addressing claims of Political Interference with Science with a focus on Global Warming.

In advance of this hearing, Committee Staff deposed Phil Cooney, former Chief of Staff for the White House’s Council on Environmental Quality. The transcript for this deposition is expected to be admitted into the hearing record today and will also be released publicly.

The Minority Staff has reviewed a draft Supplemental Memo [hereinafter “Majority Supplemental Memo”] which the Majority staff plan to release at the start of the hearing. Minority Staff is concerned that the Majority Supplemental Memo ignores important facts relating to alleged editing by Cooney and others at CEQ and, thus, have prepared this memo to shed some light on certain areas which are particularly pertinent.

**The Majority Supplemental Memo fails to state that the Director of the Climate Change Science Program (CCSP) had the final authority over the content of CCSP reports.**

The Majority Supplemental Memo reports the number and nature of edits made to Federal agency reports by Cooney and Dr. Bryan Hannegan, who served first as Assistant Director for Energy and Transportation and then as the Chief of Staff for CEQ.<sup>1</sup> The Majority Supplemental Memo also implies that the suggested edits of Cooney and Hannegan on these reports, including on reports prepared by the CCSP were inappropriate in their nature and that somehow the suggested edits were more persuasive and more likely to be incorporated in the final version of the respective documents.

The CCSP Director, government scientist Dr. James Mahoney,<sup>2</sup> was ultimately responsible for all written products that were produced by the CCSP. He also made the final determination of whether to accept suggested edits to the various CCSP reports submitted by agencies.

Mahoney stated, “As Director of the CCSP, I have had final authority over the editorial process and the approved content of all CCSP reports disseminated since 2002.”<sup>3</sup> Further, Mahoney stated “As is the case for all reports produced through the CCSP interagency process, some of the proposed edits were accepted and others were modified or rejected. In my capacity as CCSP Director, I approved the final versions of the drafts.”<sup>4</sup> Further, Cooney testified during his deposition that Mahoney had the final discretion over the content of all CCSP documents.<sup>5</sup>

Thus, it is unclear how this fundamental fact—that Mahoney -- a government scientist -- was ultimately in charge of CCSP documents—was omitted from the Majority Supplemental Memo and why, instead, the Majority Supplemental Memo seems to imply CEQ somehow had a disproportionate influence on the content of final CCSP documents (among others).

---

<sup>1</sup> Modified Organizational Chart for the White House’s Council on Environmental Quality (on file with Committee Staff).

<sup>2</sup> Dr. Mahoney, a scientist, is also the Assistant Secretary for Oceans and Atmosphere at the U.S. Department of Commerce.

<sup>3</sup> Letter to Senator James Inhofe from Dr. James Mahoney, Director, Climate Change Science Program, Jul. 22, 2005 [hereinafter “Inhofe Letter”], 2. In a previous letter, Mahoney also stated, “In the end, the CCSP Director is responsible for the scientific integrity of these CCSP planning and program report documents.” Letter to Senator Frank Lautenberg and Senator Harry Reid from Dr. James Mahoney, Director, Climate Change Science Program, Jul. 14, 2005 2.

<sup>4</sup> Inhofe Letter at 3.

<sup>5</sup> Deposition of Phil Cooney, former Chief of Staff for the White House’s Council on Environmental Quality, Mar. 12, 2007 [hereinafter “Cooney Deposition”] 61. “[Mahoney], himself, of course, is an eminent scientist, and he had the final decision-making on the content of the [CCSP’s 10-year Strategic Plan]”. *Id.*

**The Majority Supplemental Memo fails to state CEQ was one of numerous Federal agencies reviewing documents.**

CEQ's review of documents produced by Federal agencies (including by CCSP and the U.S. Environmental Protection Agency (EPA)) was part of the regular interagency review process. Nearly thirty agencies in addition to CEQ participated in this review process which was coordinated through the White House's Office of Management and Budget (OMB).<sup>6</sup>

Thus, again, it is unclear how the fundamental fact—that many agencies in addition to CEQ were also submitting edits to Mahoney—was omitted from the Majority Supplemental Memo and why, instead, the Majority Supplemental Memo seems to imply CEQ somehow had a disproportionate influence on the content of final CCSP documents (among others).

**The Majority Supplemental Memo is misleading when it states CEQ was editing scientific reports prepared by government scientists.** The Majority Supplemental Memo states CEQ was editing documents prepared by government scientists.<sup>7</sup> This is an incorrect statement as it pertains to the CCSP Report "Our Changing Planet."

It was established during this Committee's January 30, 2007 hearing that Rick Piltz, the editor of "Our Changing Planet" was not a scientist.<sup>8</sup> Further, Mr. Piltz stated "I would compile and edit into accessible language the contribution of about 90 scientists and science program managers in the Federal agencies and labs."<sup>9</sup> Mr. Piltz also admitted he engaged in "some editorial selection."<sup>10</sup>

Further, Our Changing Planet and the CCSP Strategic Plan were intended as policy statements and not scientific documents. Thus, assertions or implications in the Majority Supplemental Memo that Cooney was editing "scientific" documents prepared by government scientists are wholly inaccurate.

---

<sup>6</sup> Cooney Deposition at 56-57. "When OMB takes a document, it is generally at its final stage. They circulate it out to any agency affected, really, by the contents of the document. So, in this case, it was probably sent out to 17 agencies for their formal review and comments on the [CCSP Strategic Plan] and at the same time, was sent to probably 5 separate White House offices and other White House staff, but it was sent out very broadly by OMB for comment." *Id.*

<sup>7</sup> Majority Supplemental Memo at 2.

<sup>8</sup> *Hearing on Political Interference with Science: Global Warming before the House Oversight and Government Reform Committee*, Jan. 30, 2007 [hereinafter "OGR Hearing Part I"], Tr. at 132 (statements by Rep. Christopher Shays and Mr. Rick Piltz, CCSP, Senior Associate).

<sup>9</sup> OGR Hearing Part I at Tr. 77.

<sup>10</sup> *Id.* at Tr. 135 (*Piltz stating*, "Yes, I engaged in some editorial selection, as I say, but everything I did was in collaboration with the scientists, was reviewed, revised, edited and approved by the career science people before it could go forward.").

**The Majority Supplemental Memo excludes portions of Cooney’s deposition testimony which leads to mischaracterizations of Cooney’s testimony.** In one instance, the Majority Supplemental Memo inappropriately excluded portions of Cooney’s deposition testimony, changing the meaning and tone of Cooney’s statements.

The Majority Supplemental Memo inaccurately represents Cooney’s requests for suggested edits to be made to the EPA Draft Report on the Environment. The Majority Supplemental Memo stated: “CEQ produced a copy of a cover sheet that accompanied Mr. Cooney’s edits to the Draft Report. On this cover sheet, Mr. Cooney wrote, ‘These changes must be made.’”<sup>11</sup> The Majority Supplemental Memo continues stating, “[d]uring his deposition, Mr. Cooney confirmed that he wrote this comment and acknowledged that ‘the language is mandatory.’”<sup>12</sup>

The Majority Supplemental Memo continues stating “[Cooney] further testified: ‘If they want to publish [EPA’s Draft Report on the Environment], they [EPA] need to respond, to engage our comments. And so it was my way of getting Alan Hecht [an EPA employee detailed to work at CEQ] something to go back to [EPA] with and say, you have got to engage their comments.’”<sup>13</sup>

This passage gives the impression that Cooney was issuing orders to EPA detailees and that these orders were mandatory and non-negotiable. In fact, this is an incorrect representation of Cooney’s deposition testimony mainly because Majority Staff elected to omit key portions of that deposition testimony.

In fact, Cooney expressly states he had not issued an order and he describes a “collegial” and “respectful” relationship between the CEQ and EPA staffs as detailed in full below:

Q [Majority Counsel]: The exhibit reads ... “Alan, these changes must be made. Thanks. Phil.” Is that your comment?

A [Cooney]: That was my comment.

Q: And as the Chief of Staff of the White House CEQ, you were giving an order here, weren’t you?

---

<sup>11</sup> Majority Supplemental Memo at 5.

<sup>12</sup> *Id.* citing Cooney Deposition at 159-60.

<sup>13</sup> *Id.* citing Cooney Deposition at 160.

A: No. I mean the language is mandatory, but the comment process within the executive branch is very collegial and respectful. And, I wouldn't read it as an order. I think my recollection is that I wrote this comment after we had received back from EPA a few additional drafts that did not reflect that they had considered comments that had been provided by our Agency. Yet we were receiving at the same time a message from EPA, through Alan Hecht, that Governor Whitman wanted to publish the report soon ... I can't remember the exact time, but within a certain time frame.

And my recollection is that I wrote this sort of in response to that pressure. If they want to publish they need to respond, to engage in our comments. And so it was my way of getting Alan Hecht something to go back to the Agency with and say, you have got to engage their comments. You can't just continue to disregard them. But it was – it wasn't – it just was not an order. It was not an order, which was your question.

Q: Do you expect that Alan Hecht took this comment to EPA and told them that the changes you made had to be made?

...

A: I don't know. I really don't know how he used it.<sup>14</sup>

Thus, the implication through selective quoting in the Majority Supplemental Memo, that Cooney was harshly giving orders is misleading, as demonstrated by the above passage.

### **The Majority Supplemental Memo mischaracterizes the purpose of the Concurrence Sheet for the CCSP Strategic Plan.**

The Majority Supplemental Memo states:

Although Mr. Cooney contended in his deposition testimony that CEQ's edits were merely recommended changes that could be accepted or rejected by Dr. James Mahoney, Director of the Climate Change Science Program, Mr. Cooney signed a "concurrence sheet" in which he "approved" the Strategic Plan.<sup>15</sup>

---

<sup>14</sup> Cooney Deposition at 159-60.

<sup>15</sup> Majority Supplemental Memo, 4 (*referencing* Cooney Deposition at 57, 61, 73, 74, 82, 132, 146 151-152, 156-157; Concurrence Sheet to Jim Mahoney, Director, CCSP, from Phil Cooney, Chief of Staff, CEQ, Jul. 19, 2003, Bates # 1484 [hereinafter "Cooney Concurrence Sheet"]).

It appears that the Majority Staff is implying that the CCSP Strategic Plan could not have been published without Cooney's concurrence. This is misleading and is contradicted by the documents and Cooney's testimony:

Q [Minority Counsel]: Going back to Exhibit 23 [the Concurrence Sheet], and, if I recall correctly ... Majority counsel's question was something along the lines of if you had refused to clear the [CCSP Strategic Plan], would [it] have been issued?

Could you just read through the options that are presented on this form [the Concurrence Sheet] and let me know whether or not there is one that specifically ... provides for an option to refuse the report?

A [Cooney]: That is a very good question. There is not an option for refusing concurrence.<sup>16</sup>

Thus, if indeed the Majority Staff were trying to imply that the publishing of the CCSP Strategic Plan would not have proceeded without concurrence from CEQ, this is inaccurate based upon Cooney's own testimony and the options provided on the Concurrence Sheet itself.<sup>17</sup>

**The Majority Supplemental Memo fails to state CEQ relied upon the best available science.**

In 2001, the President requested the National Research Council (NRC) of the National Academy of Sciences (NAS) to prepare a report responding to certain questions regarding the state of climate change science and areas that were a priority for research funding.<sup>18</sup>

---

<sup>16</sup> Cooney Deposition at 166.

<sup>17</sup> Cooney Concurrence Sheet.

<sup>18</sup> National Academy of Sciences, *Climate Change Science: An Analysis of Some Key Questions (2001)*, National Academies Press, Jun. 2001 [hereinafter "NRC Report"]. NRC is the preeminent scientific research organization in the United States, and NAS is the preeminent scientific body in the United States.

In the performance of his job, Cooney relied upon the NRC Report along with the President's 2001 and 2002 policy statements.<sup>19</sup> Specifically, Cooney testified that, "[t]hese documents [the NRC Report and the President's policy statements] were foundational to the administration and ... these were foundational guidance for our work in the White House policy shop to make sure that all future efforts of the [Bush] [A]dministration that we were called upon to review were aligned with the President's stated priorities."<sup>20</sup> Further, Cooney testified that he carefully ensured his comments were consistent with these documents.<sup>21</sup>

However, the Majority Supplemental Memo did not mention the importance of these documents to Cooney in the performance of his job or the objective reliability of the NRC Report. The Majority Supplemental Memo should have acknowledged that Cooney testified under oath that he heavily depended on the NRC Report and its objectivity<sup>22</sup> which was widely recognized as the best available science at the time. This would have lent inherent credibility to the suggested edits Cooney made to various drafts of Federal agency reports.

**The Majority Supplemental Memo misrepresents that CEQ's comments created scientific uncertainty in the final documents.**

Throughout the Majority Supplemental Memo, Majority Staff make categorical statements about the nature of the suggested edits made by Cooney and other CEQ staff. Based upon the complexity and volume of the thousands of pages of CEQ documents received by Committee Staff from CEQ pursuant to request letters by Chairman Henry A. Waxman and Ranking Member Tom Davis, Minority Staff believe it is impossible and improper to make a generalization of the nature of CEQ's suggested edits because:

- the number of suggested edits of an alleged particular type is not dispositive of an overall effect of the suggested edits;
- each suggested edit must be analyzed individually and in the context of the sentence and section in which it is made, and Majority Staff have failed to do this; and,
- the individual suggested edits presented by Majority Staff in the Majority Supplemental Memo cannot be presented as representative because each suggested edit is different.

---

<sup>19</sup> White House, *Climate Change Initial Report*, Jun. 11, 2001, available at <http://www.whitehouse.gov/news/releases/2001/06/climatechange.pdf> [last visited Mar. 16, 2007]; White House, *Global Climate Change Policy Book*, Feb. 14, 2002, available at <http://www.whitehouse.gov/news/releases/2002/02/climatechange.html> [last visited Mar. 16, 2007].

<sup>20</sup> Cooney Deposition at 47.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

Therefore, Minority Staff believes the only way to assess each suggested edit made by CEQ Staff to the various Federal agency reports is through individual analysis of the nature and context of the individual suggested edit as well as in which draft the suggested edit comment was made and whether it was ultimately accepted in the final document.

For example, if individual suggested edits can be taken as representative of a “type” of suggested edits made by CEQ, the examples provided in the Majority Supplemental Memo do not rise to the level of, for example, exaggeration of uncertainties.

The Majority Supplemental Memo states “[t]he October 21, 2002 draft read: ‘Warming temperatures will also affect Arctic land areas’” and that Cooney “replaced the certainty of “will” with the uncertainty of “may.” With his edit, the sentence read: “Warming temperatures may also affect Arctic land areas.””<sup>23</sup>

This does not represent any exaggeration of uncertainty because the original sentence was an overstatement of the science and not representative of the state of science or certainty at that time. This is because no aspect of climate change science has been proved—least of all future impacts—thus the statement in that an impact will occur was entirely misleading and misrepresentative. In fact, it appears in this instance, Cooney’s comment was accurate, irrespective of whether it was ultimately accepted by Mahoney.

Similarly, the Majority Supplemental Memo is internally inconsistent when it says that adding “potential” when discussing impacts of climate change was inappropriate. The Majority Supplemental Memo states Cooney inappropriately added “potential” to the following sentence: ‘Reducing the scientific uncertainty in global climate models could...in the long run provide information on the potential impacts of climate change on ecosystems.’”<sup>24</sup>

The Majority Supplemental Memo quotes Mahoney’s response as “‘Not just ‘in the long run.’ Research is already providing meaningful information on potential impacts of climate change on ecosystems.’”<sup>25</sup> Ironically, the very comment the Majority Supplemental Memo indicated Cooney inappropriately made (i.e., adding uncertainty by adding the word “potential”) was adopted by Mahoney in his response, therefore, disproving the Majority Staff’s notion that adding “potential” before impacts was inappropriate.

---

<sup>23</sup> Majority Supplemental Memo at 2.

<sup>24</sup> *Id.* (emphasis in the original).

<sup>25</sup> *Id.*, 7-8. (emphasis added)



**Conclusion**

The foregoing is a representation of concerns Minority Staff have about the accuracy and the fair representations made by Majority Staff in their Majority Supplemental Memo. Specifically, Majority Staff appear to have not accurately represented Cooney's deposition testimony, have omitted critical facts, including that the ultimate responsibility for certain documents rested not with Cooney or any other individual at CEQ, and in certain instances have drawn conclusions which do not follow based upon the facts provided or which are internally inconsistent.